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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

MARCOLINO TELLEZ,

Defendant and Appellant.

B177959

(Los Angeles County  
Super. Ct. No. BA262007)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Maral Inejikian, Judge. Appeal dismissed.

Richard Jay Moller, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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In a negotiated plea, Marcolino Tellez pleaded no contest to inflicting corporal injury on a spouse with an admission he had inflicted great bodily injury during domestic violence for which he agreed to a five year sentence, consisting of the lower term of two years for corporal injury to a spouse, enhanced by three years for great bodily injury.<sup>1</sup> Tellez did not obtain a certificate of probable cause.<sup>2</sup> He appealed from the judgment and we appointed counsel to represent him on appeal.

After examination of the record, counsel filed an “Opening Brief” in which no issues were raised. On January 31, 2005, we advised Tellez he had 30 days within which to personally submit any contentions or issues he wished us to consider. No response has been received to date.

In his notice of appeal, Tellez claims ineffective assistance of trial counsel. This claim does not survive his no contest plea and the failure to obtain a certificate of probable cause.<sup>3</sup>

We have examined the entire record and are satisfied Tellez’s counsel has complied fully with counsel’s responsibilities.<sup>4</sup> However, because Tellez pleaded no contest and failed to obtain a certificate of probable cause, the appeal is not operative and must be dismissed.

The appeal is dismissed.

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JOHNSON, J.

We concur:

PERLUSS, P. J.

ZELON, J.

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<sup>1</sup> Penal Code sections 273.5, subdivision (a); 12022.7, subdivision (e).

<sup>2</sup> Penal Code section 1237.5.

<sup>3</sup> See *In re Chavez* (2003) 30 Cal.4th 643, 650-651; *People v. Mendez* (1999) 19 Cal.4th 1084, 1096-1099.

<sup>4</sup> *Smith v. Robbins* (2000) 528 U.S. 259, 277-284; *People v. Wende* (1979) 25 Cal.3d 436, 443.